



EARL W. PHILLIPS, JR.

280 Trumbull Street
Hartford, CT 06103-3597
Main (860) 275-8200
Fax (860) 275-8299
ephillips@rc.com
Boston Direct (617) 557-5949
Hartford Direct (860) 275-8220

Also admitted in Maine,
Massachusetts, New York,
Pennsylvania, and
District of Columbia

Via First Class Mail and Electronic Mail (hq.foia@epa.gov)

July 30, 2019

National FOIA Office
U.S. Environmental Protection Agency
1200 Pennsylvania NW, Room 5315
Washington, DC 20460
(202) 566-1667

Re: **Specialty Minerals, Inc. – Adams, Massachusetts
Freedom of Information Act Request**

Dear National Freedom of Information Officer:

On behalf of my client, Specialty Minerals, Inc. and pursuant to Title 5 of the United States Code, Section 552 and Title 40 Part 2 of the Code of Federal Regulations, I hereby submit this Freedom of Information Act request for documents and information further detailed below

Description of Records Sought

The following is a list of requested documents and information:

- “Development Document for Effluent Limitations and Guidelines and Proposed New Source Performance Standards for the Inorganic Products Segment of the Inorganic Chemicals Manufacturing Point Source Category.” This document title was referenced in the Federal Register, Volume 40, No. 100 (Thursday, May 22, 1975), p. 22407.

19648134-v1

National Freedom of Information Officer

July 30, 2019

Page 2

- Any documents containing an economic analysis of pollution control technologies related to or supporting 40 C.F.R. § 415, Subpart AD (Calcium Carbonate);
- Any documents related to the calculation or establishment of the mass based limits for total suspended solids contained in 40 C.F.R. § 415, Subpart AD (Calcium Carbonate);
- Any documents containing an economic analysis of pollution control technologies related to or supporting 40 C.F.R. § 415, Subpart E (Calcium Oxide);
- Any documents containing an economic analysis of pollution control technologies related to or supporting 40 C.F.R. § 415, Subpart AE (Calcium Hydroxide);
- Any documents related to the establishment of the no discharge of process wastewater pollutants into navigable waters contained in 40 C.F.R. § 415, Subparts E (Calcium Oxide) and AE (Calcium Hydroxide);
- Public comments filed with the US Environmental Protection Agency in connection with the promulgation of 40 C.F.R. § 415, Subparts E, AD, and/or AE (calcium oxide, calcium hydroxide, and calcium carbonate, respectively);
- Any and all information (i.e., identity, location, names, processes, etc.) concerning the exemplary plants referenced in the draft development documents and Federal Registers in connection with the regulatory rulemaking for 40 C.F.R. § 415, Subparts E, AE, and AD;
- Any and all documents, responses, or other information provided to the US Environmental Protection Agency by the exemplary plants referenced in the draft development documents and Federal Registers in connection with the regulatory rulemaking for 40 C.F.R. § 415, Subparts E, AE, and AD;
- Any and all correspondence between Pfizer Inc. or Specialty Minerals, Inc. and the US Environmental Protection Agency related to National Pollutant Discharge Elimination System (NPDES) Permits for the Adams, Massachusetts facility (NPDES Permit No. MA0005991);
- Any and all US Environmental Protection Agency correspondence, memorandum, or documents related to National Pollutant Discharge Elimination System (NPDES) Permits for the Adams, Massachusetts facility (NPDES Permit No. MA0005991), including, but

National Freedom of Information Officer
July 30, 2019
Page 3

not limited to, documents related to why provisions of 40 C.F.R. § 415, Subpart AD were not included in the 2003 or prior NPDES Permits;

- Any and all US Environmental Protection Agency correspondence with the Commonwealth of Massachusetts and/or its representative agencies related to National Pollutant Discharge Elimination System (NPDES) Permits for the Adams, Massachusetts facility (NPDES Permit No. MA0005991); and
- Correspondence from Pfizer Inc. to US Environmental Protection Agency, dated December 22, 1975, discussing proposed changes to air pollution control equipment

As the Freedom of Information Act requires, please release all reasonably segregable nonexempt portions of the documents responsive to this request.

Expedited Request

SMI hereby respectfully requests that its request be granted expedited treatment pursuant to 40 C.F.R. § 2.104(e). The US Environmental Protection Agency issued a Draft NPDES Permit for SMI's Adams, Massachusetts facility. The public comment period for this Draft NPDES Permit ends on Tuesday, September 3, 2019. The above requested documents and information are critical and vital to SMI's ability to fully and completely provide the US Environmental Protection Agency with adequate and helpful public comments. Upon receiving the above requested documents and information, SMI will need time to review, analyze, and process the documents and information before drafting and submitting public comments.

This short timeframe is not within SMI's control. Since receiving the Draft NPDES Permit SMI has undertaken significant efforts to obtain the above requested documents and information through publicly available means, but has been unsuccessful. SMI has limited time remaining to prepare, draft, and submit public comments on the Draft NPDES Permit. SMI's public comments will be important for informing the US Environmental Protection Agency, the Commonwealth of Massachusetts, and the public concerning the applicability of certain conditions and regulations to SMI's operations at the Adams, Massachusetts facility. Thus, SMI has an urgent need for the requested documents and information to inform the public about actual Federal government activity.

National Freedom of Information Officer
July 30, 2019
Page 4

Confidential Business Information

It is our understanding that the documents and information requested above related to the exemplary plants reviewed and referenced during the regulatory rulemaking process may have been and may still be considered confidential business information. However, such information would have been submitted to the US Environmental Protection Agency over forty (40) years ago and cannot, under any reasonable or straight-faced standard still be considered confidential business information. After all, it is likely that some of the exemplary plants may not be currently operating or if they are operating that their operations and financial information differ substantially from the information provided in the 1970s. Such information could not reasonably be expected to provide SMI with confidential business information that would be relevant to SMI's business operations today or that would provide SMI a competitive advantage. In addition, the markets and industry have changed substantially since these exemplary plants provided information and such information cannot reasonably be considered to still be confidential business information. Finally, pursuant to 40 C.F.R. § 2.302(g), if such documents or information were provided to the US Environmental Protection Agency pursuant to section 308 of the Act, 33 U.S.C. 1318 or section 509(a) of the Act, 33 U.S.C. 1369(a), then such documents or information may be released because it is relevant to a proceeding before the US Environmental Protection Agency. As noted above, documents and information related to the exemplary plants the US Environmental Protection Agency reviewed, referenced, and relied upon in promulgating 40 C.F.R. § 415, Subparts E, AD, and AE is critically important to SMI's appropriate, complete, and full participation in the public comment period and review of SMI's Adams, Massachusetts facility's Draft NPDES Permit, which is a currently ongoing proceeding.

Agreement to Pay Fees

SMI hereby agrees to the payment of up to \$250 (two hundred and fifty dollars) in fees. Should the cost of providing the above requested documents and information exceed this amount, please contact my colleague Jonathan Schaefer (860-275-8349 or jschaefer@rc.com) to receive SMI's consent to such additional costs.

Alternatively, in the interest of time and resources, we would gladly accept any documents and information being provided via electronic mail in pdf form. To the extent such documents and information are too large in size to send via normal electronic mail, we would be pleased to provide access to a secure data transfer site whereby large amounts of electronic files can be transmitted to us.

Robinson+Cole

National Freedom of Information Officer
July 30, 2019
Page 5

If you have any questions regarding this request, please contact my colleague Jonathan Schaefer (860-275-8349 or jschaefer@rc.com) or me using the contact information above. I look forward to receiving your response within the twenty (20) day statutory time period.

Thank you for your consideration of this request and your anticipated timely response.

Sincerely,

A handwritten signature in black ink, appearing to read "Earl W. Phillips, Jr.", with a long, sweeping horizontal line extending to the right.

Earl W. Phillips, Jr.

Copy to: Paul Shriner, USEPA (Shriner.Paul@epa.gov)
Damien Houlihan, USEPA (houlihan.damien@epa.gov)
Joseph Meadows, SMI